

ENTERED

September 19, 2019

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

PAMELA ZIOLKOWSKI MARGOLIS, §
Plaintiff, §
§
v. § Civil Action No. 1:18-cv-00162
§
JAMES B. NUTTER & COMPANY, *et al.*, §
Defendants. §

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**

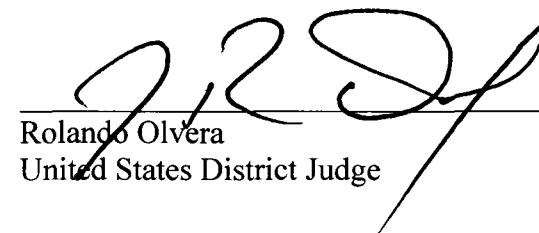
Before the Court is the “Magistrate Judge’s Report and Recommendation” (“R&R”) (Docket No. 52) in the above-captioned case. The R&R recommended the Court grant James B. Nutter & Company’s (“JBNC”) “Motion to Dismiss” (Docket No. 24). With the Court’s leave, Pamela Z. Margolis (“Plaintiff”) filed late Objections to the R&R (“Plaintiff’s Objections”) (Docket No. 57). Defendant timely responded. *See* Docket No. 58.

Plaintiff’s remaining claims¹ arise from JBNC’s alleged violation of The Department of Housing and Urban Development (“HUD”) regulations. *See* Docket No. 57 at 7, 9, and 12. However, HUD regulations do not create a private right of action unless the regulations are explicitly incorporated in the Deed of Trust. *See Johnson v. World All. Fin. Corp.*, 830 F.3d 192, 196 (5th Cir. 2016). Plaintiff concedes the Deed of Trust did not explicitly incorporate HUD regulations but merely made references to “authorizations, notices, and requirements … all with no reference made to any *particular* regulations.” *Id.* (emphasis in original). Thus, the remainder of Plaintiff’s claims warrant dismissal. *Johnson*, 830 F.3d at 196 (citing *Chandler v. Wells Fargo Bank, N.A.*, No. 11—03831 SC, 2014 WL 31315, at *5-6 (N.D. Calif. Jan. 3, 2014), aff’d, 673 Fed. App’x 413 (9th Cir. 2016) (dismissing claim for a plaintiff’s failure to identify “a particular provision … incorporating HUD regulations.”)).

¹Plaintiff’s Objections abandoned the following claims: (1) violation of the Texas Deceptive Trade Practices Act; (2) wrongful foreclosure; (3) breach of fiduciary duty; (4) age discrimination; (6) gender discrimination; (7) violation of § 50 of the Texas Constitution; (8) declaratory judgment; and (9) attorney’s fees. *See* Docket No. 57.

After a *de novo* review of the record, the Court **ADOPTS** the R&R (Docket No. 52) in its entirety and **GRANTS** JBNC's Motion to Dismiss (Docket No. 24). The Court **OVERRULES** Plaintiff's Objections (Docket No. 57) and **DISMISSES** all claims against JBNC **with prejudice**.

Signed on this 19th day of September, 2019.



Rolando Olvera
United States District Judge